

WHEREAS, the above entitled court in an order made and

entered in the above entitled cause on the 26th day of September 1921, ordered the Water Commissioner to prepare and file plans and specifications for the headgates and diverting works necessary to be constructed near the Mouth of Provo Canyon, in Utah County, Utah, which said headgates and diversion works were and are necessary for the distribution of waters of said Provo River to the Upper East Union Irrigation Company and to the East River Bottom Water Company, two of the defendants named in the above entitled action, and said plans and specifications were thereafter, to-wit, on or about the 10th day of November, 1921 filed with the Clerk of said Court in the above entitled cause, as ordered by the Court and copies of which said plans, and specifications were thereafter, to-wit, on or about the 4th day of January 1922, delivered to and served upon each of said defendants, to-wit, Upper East Union Irrigation Company and East River Bottom Water Company; and

WHEREAS, thereafter, to-wit, on or about the 23rd day of October, 1922, the said defendants, Upper East Union Irrigation Company and East River Bottom Water Company, jointly commenced the construction of head gates and diversion works at the head of City Creek, near the Mouth of Provo Canyon, on the Provo River System, and said defendants in commencing and constructing said head gates and diversion works ignored and failed and refused to follow, use or be guided by the said plans and specifications filed by the Water Commissioner herein; and

WHEREAS, on or about the 27th day of October, 1922, the said Water Commissioner served notice upon the said defendants above named that plans and specifications were drawn and filed for the gates and dams near the Mouth of Provo Canyon, and at the point near where they were building, and that said plans and specifications were on file in the above entitled cause, and that by said Water Commissioner, said defendants were advised that if they proceeded with the construction of said diversion works without following the plans and specifications filed by the Water Commissioner, and

were further advised, before proceeding, to consult the Decree of the Court in the above entitled cause in regard to such matters; a full, true and correct copy of said notice which was served upon said defendants is hereto attached, marked "EXhibit A" and made a part of this report; and

WHEREAS, in said notice served upon the defendants hereinabove referred to, the Water Commissioner disclaimed any responsibility, either physical^{ly}/or legally, if said defendants proceeded as their individual plans called for; and

WHEREAS, said defendants, notwithstanding, said notice and the fact that said plans and specifications prepared by the Water Commissioner herein, under the order of the Court, as aforesaid, were filed and copies served upon said defendants, said defendants proceeded with and did construct ~~dams~~, head gates and diversion works at the head of City Creek on the Provo River system, contrary to said notice and against the orders, and with the disapproval, of the office of the Water Commissioner herein;

NOW THEREFORE, I, T. F. Wentz, duly appointed, qualified and acting Water Commissioner in the above entitled cause do hereby report to the Honorable Court above named that the Upper East Union Irrigation Company and the East River Bottom Water Company, two of the defendants named in the above and foregoing action, did, during the months of October and November, 1922, without the approval and consent, and contrary to the advice and direction of said Water Commissioner, build and construct certain ~~dams and~~ head gates at the head of City Creek on the Provo River System, which said ~~dams and~~ head gates were not built in accordance with the plans, specifications and estimates filed herein by said Water Commissioner for the building of the same;

And I hereby further report that before said dams, head gates and diversions works were completed, at or about the time of the commencement of the building of the same, I notified said defendants and each of them, that the Water Commissioner would not be responsible for any damage, either physically or legally, or

otherwise, that may or might be incurred by any person or persons by reason of their building said ~~dams~~^{gates} without following the provisions of the Decree of the Court in the above entitled matter, and following the plans, specifications and estimates of the Water Commissioner for such construction work.

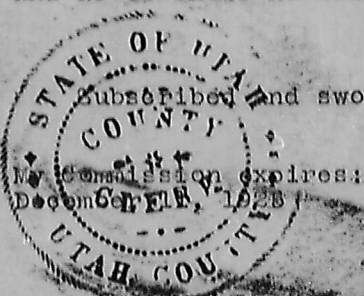
I hereby made this report for the purpose of making the record complete and showing the transactions of the Water Commissioner and his office in the above entitled manner, and making a record for the purpose of protecting said Water Commissioner and his office from any liability whatsoever by reason of the failure, neglect and refusal of said defendants, Upper East Union Irrigation Company and East River Bottom Water Company to build and construct their ~~dams~~, head gates^{and} diversions works in conformity with the Decree in the above entitled cause, and under the direction and supervision and according to the plans, specifications and estimates of the Water Commissioner herein.

Respectfully submitted this 23rd day
of November, 1922.

T. F. Wentz
Water Commissioner

STATE OF UTAH ()
COUNTY OF UTAH () SS

T. F. Wentz, being first duly sworn, deposes and says:
That he is the Water Commissioner who makes and files the above and foregoing Special Report; that he has read said report and knows the contents thereof; that the same is true of his own knowledge, except as to matters therein stated upon information and belief, and as to those he believes it to be true.



Subscribed and sworn to before me this 23rd day of November, 1922

Wallace H. Haines
Notary Public
Roosevelt, Utah